

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. PR 06-0120

STATE OF MONTANA,

Plaintiff,

v.

LORNE E. MURPHY,

Defendant.

ORDER

FILED

FEB - 3 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Lorne E. Murphy seeks to disqualify the Honorable Robert L. Deschamps, III, from presiding in Cause No. DC 08-445 in the Fourth Judicial District Court, Missoula County, pursuant to § 3-1-805, MCA. Murphy, who is appearing pro se in the District Court with the assistance of standby counsel Chris Daly, has submitted four affidavits in support of her motion to disqualify Judge Deschamps.

Section 3-1-805(1)(a), MCA, requires that an affidavit for disqualification must be filed more than 30 days before the date set for hearing or trial. Murphy's affidavit was filed with the District Court on January 22, 2010. The Clerk of the Fourth Judicial District Court informs us that Cause No. DC 08-445 is set for hearing in that court on February 16, 2010. Murphy's motion and affidavit are untimely. As a result, it is unnecessary for us to appoint a district judge to hear the matter.

IT IS THEREFORE ORDERED:

1. The request to disqualify District Judge Deschamps from Missoula County Cause No. DC-08-445 is DENIED.
2. The Clerk is directed to provide copies of this order to the Clerk of the District Court of Missoula County for notification to Lorne E. Murphy personally and all

counsel of record in Cause No. DC-08-445, and to the Honorable Robert L.
Deschamps, III, District Judge.

DATED this 3rd day of February, 2010.

Chief Justice

William J. Bryant

James L. ...

Michael W. ...

John L. ...

Patricia C. ...

James L. ...

Justices